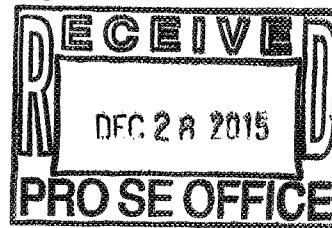


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FRANK HERNANDEZ  
97 ARDEN ST 5th FL MANHATTAN  
NY 10040

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

COMPLAINT  
FOR EMPLOYMENT  
DISCRIMINATION

RIVERSIDE BUILDERS, INC  
ESTEBAN ESPINOZA  
FEDERICO

Jury Trial: ☐ Yes ☒ No  
(check one)

15 CV 10099

(In the space above enter the full name(s) of the defendant(s).  
If you cannot fit the names of all of the defendants in the space  
provided, please write "see attached" in the space above and  
attach an additional sheet of paper with the full list of names.  
Typically, the company or organization named in your charge  
to the Equal Employment Opportunity Commission should be  
named as a defendant. Addresses should not be included here.)

This action is brought for discrimination in employment pursuant to: (check only those that apply)

☒  
☒  
☒  
☒  
☒  
☒

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.

Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.

NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

**I. Parties in this complaint:**

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name FRANK HERNANDEZ  
 Street Address 97 ARDEN ST 5<sup>TH</sup> A  
 County, City MANHATTAN  
 State & Zip Code NY 10040  
 Telephone Number 347 777 6771

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant Name RIVERSIDE BUILDERS, INC  
 Street Address 85 DEPOT PLACE  
 County, City NY NYACK  
 State & Zip Code NY 10960  
 Telephone Number \_\_\_\_\_

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer \_\_\_\_\_  
 Street Address \_\_\_\_\_  
 County, City \_\_\_\_\_  
 State & Zip Code \_\_\_\_\_  
 Telephone Number \_\_\_\_\_

**II. Statement of Claim:**

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. The discriminatory conduct of which I complain in this action includes: (check only those that apply)

☒ Failure to hire me.  
☒ Termination of my employment.  
☐ Failure to promote me.  
☐ Failure to accommodate my disability.  
☐ Unequal terms and conditions of my employment.



Retaliation.

Other acts (specify): \_\_\_\_\_

*Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.*

B. It is my best recollection that the alleged discriminatory acts occurred on: October 2014  
Date(s)

C. I believe that defendant(s) (check one):

/ is still committing these acts against me.

\_\_\_\_\_ is not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

☒ race \_\_\_\_\_ ☒ color black

☒ gender/sex homosexual ☐ religion \_\_\_\_\_

☐ national origin Cuba

☐ age. My date of birth is \_\_\_\_\_ (Give your date of birth only if you are asserting a claim of age discrimination.)

☐ disability or perceived disability, \_\_\_\_\_ (specify)

E. The facts of my case are as follow (attach additional sheets as necessary):

I WAS FIRED (SEE ATTACHED). I am  
homosexual and I began to work since  
2014 at Riverside Builders, Inc. There  
my coworkers said me in Spanish  
"Negro Manicon", "negro fucky". They  
said me this bad words many times.  
They harassed me and I feel harassed.

*Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.*

### III. Exhaustion of Federal Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: \_\_\_\_\_ (Date).

## B. The Equal Employment Opportunity Commission (check one):

       has not issued a Notice of Right to Sue letter.  
☒ issued a Notice of Right to Sue letter, which I received on Sep 29, 2015 (Date).

*Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.*

## C. Only litigants alleging age discrimination must answer this Question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

       60 days or more have elapsed.  
       less than 60 days have elapsed.

## IV. Relief:

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows: ① I want my job back ②

Stop the discrimination me about my race, sexual  
orientation, and background. ③ I need medical treatment  
 (Describe relief sought, including amount of damages, if any, and the basis for such relief.)  
and compensation.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 28 day of December, 2015.

Signature of Plaintiff

Address

x FRANK HERNANDEZ  
 x 97 ARDEN ST 5TH FL  
MANHATTAN NY 10040

Telephone Number

Fax Number (if you have one)

347 977 6771

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Frank Hernandez**  
**97 Arden Street, Apt 5A**  
**New York, NY 10040**

From: **New York District Office**  
**33 Whitehall Street**  
**5th Floor**  
**New York, NY 10004**

☐

On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**16F-2014-00144**

**Holly M. Woodyard,**  
**State & Local Program Manager**

**(212) 336-3643**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

  
**Kevin J. Berry,**  
**District Director**

**September 29, 2015**

Enclosures(s)

(Date Mailed)

cc:

**ATTN: DIRECTOR OF HUMAN RESOURCES**  
**RIVERSIDE BUILDERS, INC.**  
**85 Depot Place**  
**Nyack, NY 10960**

**ATTN: ROBERT JAY GUMENICK**  
**LAW OFFICE OF ROBERT JAY GUMENICK, P.C.**  
**260 MADISON AVENUE, 17<sup>TH</sup> FLOOR**  
**NEW YORK, NY 10016**



## DO I NEED A LAWYER?

No, you do not need a lawyer to file a private suit. You may file a complaint in federal court without a lawyer which is called a *Pro Se* complaint. Every district court has either a clerk or a staff attorney who can assist you in filing *Pro Se*. To find out how to file a *Pro Se* complaint, contact the clerk of the court having jurisdiction over your case who can advise you of the appropriate person to assist you and of the procedures to follow, which may vary from district to district.

You may, however, wish to retain a lawyer in order to adequately protect your legal rights. Whether you retain a private attorney, or file *Pro Se*, you must file your suit in the appropriate court within 90 days of receiving this mailing.

## WHAT IF I WANT A LAWYER BUT CAN'T AFFORD ONE?

If you can't afford a lawyer, the U.S. District Court which has jurisdiction may assist you in obtaining a lawyer. You must file papers with the court requesting the appointment of counsel. You should consult with the office of the district court that assists *Pro Se* complainants for specific instructions on how to seek counsel. The appointment of counsel in any *Pro Se* complaint is always at the discretion of the court.

Generally, the U.S. District Court charges a \$350.00 filing fee to commence a lawsuit. However, the court may waive the filing fee if you cannot afford to pay it. You should ask the office of the District Court that assists *Pro Se* complainants for information concerning the necessary procedure to request that the filing fee be waived.

## HOW CAN I FIND A LAWYER?

These are several attorney referral services operated by bar or other attorney organizations which may be of assistance to you in finding a lawyer to assist you in ascertaining and asserting your legal rights:

American Bar Association (800) 285-2221 <a href="http://www.abanet.org">www.abanet.org</a>	New York State Bar Association (800) 342-3661 <a href="http://www.nysba.org">www.nysba.org</a>
New York City Bar Legal Referral Service (212) 626-7373	National Employment Lawyers Association Referral Service (212) 819-9450 <a href="http://www.nelany.com/EN">http://www.nelany.com/EN</a>

Your State, City or Municipal Lawyers or Bar Association may also be of assistance.

## HOW LONG WILL THE EEOC RETAIN MY CASE FILE?

Generally, the Commission's rules call for your charge file to be destroyed after 2 years from the date of a no cause determination or six months after other types of final actions. If you file a suit, and wish us to retain your file for more than the normal retention period, you or your attorney should forward a copy of your court complaint to this office within 10 days after you file suit. **IF YOU FILE SUIT, YOU OR YOUR ATTORNEY SHOULD ALSO NOTIFY THIS OFFICE WHEN THE LAWSUIT IS RESOLVED.**